IN THE SUPREME COURT OF THE STATE OF DELAWARE

COMMERCE AND INDUSTRY INSURANCE COMPANY,	§ §
Defendant Below, Appellant,	§ No. 450, 2012 §
V.	<pre> § § Court Below-Superior Court</pre>
DEUTSCHE BANK TRUST COMPANY	§ of the State of Delaware,
AMERICAS, TAUNUS	§in and for New Castle County
CORPORATION, DEUTSCHE BANK TRUST CORPORATION, DB PRIVATE	§ C.A. No. 06C-09-261 §
CLIENTS CORPORATION and DBAB	§
WALL STREET LLC,	
,	§
Plaintiffs Below,	§
Appellees,	§
and	
ROYAL SURPLUS LINES INSURANCE	8
COMPANY and LANDMARK	\$ &
AMERICAN INSURANCE COMPANY,	\$ \$
Defendants Below,	§
Appellees.	§
* *	

Submitted: August 22, 2012 Decided: August 24, 2012

Before HOLLAND, BERGER, and JACOBS, Justices.

ORDER

This 24th day of August 2012, it appears to the Court that:

- 1) Landmark American Insurance Company (Landmark) and Commerce Industry Insurance Company (C&I), defendants below, petitioned this Court, pursuant to Supreme Court Rule 42, to accept an appeal from an interlocutory order of the Superior Court dated July 12, 2012.
- The Superior Court granted the certification application on August 14,
 2012.
- 3) Applications for interlocutory review are addressed to the sound discretion of this Court.
- 4) It appears that the Superior Court opinion addresses motions for summary judgment and motions for partial summary judgment filed in the summer of 2009. The trial court's opinion decides issues such as trigger dates, allocation of costs of defense, and primary coverage obligations.
- 5) Landmark's application for certification states that it seeks review of three issues. Two issues are matters that Landmark contends the trial court failed to address. The third issue is the trial court's determination of a duty to defend one of three categories of employees.
- 6) C&I's application for certification states that it seeks review of at least seven issues, such as, whether: the plaintiffs below waived coverage claims 'for most of the subject underlying actions based upon . . . failure to provide timely

notice," the trial court erred in deciding that "the matter was ripe for allocation of the

costs of defense; and the parties stipulation made the plaintiffs below unconditional

additional insureds for all claims under certain policies.

7) This case has been pending in the trial court for more than five years.

Based on the two applications for certification, this Court is not satisfied that

interlocutory review is likely to 'terminate the litigation, substantially reduce further

litigation, or otherwise serve considerations of justice "1

NOW, THEREFORE, IT IS HEREBY ORDERED that the interlocutory

appeals be DENIED.

BY THE COURT:

/s/ Carolyn Berger

Justice

¹Supr. Ct R. 42 (b)(iii).

-3-